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Creating Racially and Socioeconomically Integrated Public Schools: Education and Housing Policy Matter

“The successful reform of urban education, even if narrowly defined as closing the achievement gap, requires the integration of poor, minority urban students into mainstream American education and society.”¹

I. Introduction to the Problem

The Father of American public schools, Horace Mann, once famously stated, “Education then, beyond all other devices of human origin, is the *great equalizer* of the conditions of men, the balance-wheel to the social machinery.”² Sadly, our system of public schools has become far from equalizing, despite some concerted efforts to provide high quality education to all children. Our neighborhood public schools are now more racially and socioeconomically segregated than in the time following mandatory desegregation after *Brown v. Board of Education* in 1954.³ Because it is common practice to assign children to neighborhood schools based on their address or zip code, any serious hope of re-integrating our public schools- rural, suburban, and urban alike- requires a consideration not only of educational policies but also of the demography of these neighborhood schools and the housing policies and practices that contribute to and perpetuate segregation.⁴ Integrated public schools confer a well-documented benefit on all children that attend such schools and society as a whole. With

¹ BARRY A. GOLD, *STILL SEPARATE AND UNEQUAL: SEGREGATION AND THE FUTURE OF URBAN SCHOOL REFORM* 3 (2007).

² 3 MARY MANN, *LIFE AND WORKS OF HORACE MANN* 669 (1868) (emphasis added).

³ *Brown v. Board of Education of Topeka*, 347 U.S. 483, 483 (1954); GARY ORFIELD & CHUNGMEI LEE, *HISTORIC REVERSALS, ACCELERATING RESEGREGATION, AND THE NEED FOR NEW INTEGRATION STRATEGIES* 5-6 THE CIVIL RIGHTS PROJECT (2007).

⁴ Roslyn Arlin Michelson, *Exploring the School-Housing Nexus: A Synthesis of Social Science Evidence*, in *FINDING COMMON GROUND: COORDINATING HOUSING AND EDUCATION POLICY TO PROMOTE INTEGRATION* 5 (Philip Tegeler ed., 2011).

diversity in schools being recognized as a legally compelling interest for districts to pursue, we would be well-advised to devise constitutionally adequate measures of achieving diversity of race, socioeconomic status, and thought in our public schools nationwide.⁵

The goal of this paper is to highlight the need for housing and education policies to work simultaneously in the pursuit of achieving racially and socioeconomically integrated public schools. The paper begins with an overview of the trajectory of desegregation of the American education system through a legal lens that begins with *Brown v. Board of Education* in Section II, Subsection A. Section II, Subsections B and C discuss the current state of the public education system in light of the legal barriers to integration. Section III of the paper details the importance of intersecting housing and education policy to integrate schools and neighborhoods and includes examples of successful models. Section IV concludes with popular – and some, not so popular- policy recommendations for creating sustainable integrated neighborhood schools.⁶

II. Urban Public Schools

A. Brief Legal History of Segregation in Schools

Some might be surprised to learn that there is no federal constitutional right to an education. While the Supreme Court has repeatedly recognized the value and importance of

⁵ *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No 1*, (2007), 551 U.S. 701, 796 (2007).

⁶ I'd like to make two very important notes regarding the remainder of this paper: First, when I discuss the notion of “racial” isolation in the context of sustainable integration, I am only talking about isolation of Black and Latino students. Most of the data and sources I rely on only measure the number and percentages of Black and Latino students. Asian, Native American and the like are typically mentioned but do not factor into the overarching issues of racial isolation that I discuss. Second, when I use the term “public schools” this encompasses all traditional, charter, and magnet schools unless otherwise noted. This is because the charter versus traditional public school divide looks very different from state to state and my proposal and commentary affects both equally so I treat them as one in the same for the remainder of the piece.

public education,⁷ our nation's constitution does not mention education nor does it guarantee that each child will have access to it.⁸ Most states' constitutions include an education clause,⁹ however, the interpretation of what is guaranteed looks drastically different from state to state.¹⁰

One example of a state education clause is in Idaho's Constitution where it states, "[i]t shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools."¹¹ The Idaho Supreme Court narrowly interpreted this to guarantee the bare minimum of education to children.¹² They also held that this clause does not establish education as a fundamental right; the clause merely imposes a duty upon the legislature.¹³

New Jersey's education clause similarly requires its legislature to "provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years."¹⁴ The New Jersey Supreme Court however, has interpreted a "thorough and efficient" education to include a much more extensive set of requirements and expectations for the quality of public education

⁷ *Pierce v. Society of the Sisters of the Holy Name of Jesus and Mary*, 268 U.S. 510, 510 (1925); *Plyler v. Doe*, 457 U.S. 202, 202 (1982).

⁸ U.S. CONST.

⁹ *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 1 (1973).

¹⁰ There has been much scholarly research done on the topic of state constitutions and the right to an education. For a more in depth discussion, see John Eastman, *When Did Education Become a Civil Right? An Assessment of State Constitutional Provisions for Education, 1776-1990*, 62 AM. J. LEG. HIST. 1, 1 (1998).

¹¹ ID. CONST. art. IX § 1.

¹² *Thompson v. Engelking*, 537 P.2d 635, 648 (Idaho 1975); *ISEEO v. State (ISEEO III)*, 976 P.2d 913, 914 (Idaho 1998) (interpreted the duty of legislators as "provid[ing] a means for school districts to fund facilities that offer a safe environment conducive to learning...").

¹³ *Thompson*, 537 P.2d at 648; *ISEEO III*, 976 P.2d at 914.

¹⁴ N.J. CONST. art. XIII, § 4.

guaranteed than the Idaho courts ever had.¹⁵ In one of the opinions from the notorious and decades-long *Abbott* litigation, the New Jersey Supreme Court eloquently avowed, “[t]hat constitutional vision irrefutably presumes that every child is potentially capable of attaining his or her own place as a contributing member in society with the ability to compete effectively with other citizens and to succeed in the economy...[B]oth the child and society benefit immeasurably when that potential is realized.”¹⁶ If all fifty states adopted this constitutional commitment, our system of education might look significantly different than it does now. We know, of course, that this is not the case and the education one child is entitled to looks very different from the education another child receives.

If we use the right to an education as the starting point, it would seem a natural next step to explore *who* is entitled to this right to a public education. Before the *Brown* decision, most schools in the South were racially segregated by law, a scheme called de jure segregation,

¹⁵ *Abbott v. Burke* (*Abbott V*), 710 A.2d 450, 454 (N.J. 1998) (holding that the Commissioner of Education “shall: 1) implement whole-school reform and full-day kindergarten and half-day pre-school programs for three- and four-year olds as expeditiously as possible; 2) implement technology programs on the request of a school or district, or as he shall otherwise direct; 4) authorize accountability programs, as may be deemed necessary and appropriate, and to coordinate them with whole-school reform; 5) implement alternative schools or comparable education programs; 6) implement school-to-work and college-transition programs in secondary Abbott schools at the request of individual schools or districts or as the Commissioner shall otherwise direct; 7) prescribe procedures and standards to enable individual schools to adopt additional or extended supplemental programs and to seek and obtain the funds necessary to implement these programs, but only when the school has demonstrated a particularized need; 8) secure funds to cover the complete cost of remediating identified life-cycle and infrastructure deficiencies in Abbott school buildings, including making available necessary temporary facilities; and 9) initiate promptly effective managerial responsibility over school construction, including necessary funding measures and fiscal reforms as may be achieved through amendments to the Educational Facilities Act.”)

¹⁶ *Abbott v. Burke* (*Abbott IV*), 693 A.2d 417, 445 (N.J. 1997). While the findings across the history of the *Abbott* litigation were remarkable, I will not be discussing them in this paper. For a comprehensive analysis of the *Abbott* litigation, see Education Law Center, *The History of Abbott v. Burke*, EDUCATION JUSTICE (last updated 2013), <http://www.edlawcenter.org/cases/abbott-v-burke/abbott-history.html>.

creating a dual system of “black schools” and “white schools”. Although most Northern states did not have de jure segregation, many districts engaged in practices that had the same visible effects, which included: gerrymandered attendance zones, overcrowding of majority non-white schools, judicious placement of newly constructed schools, and liberal transfer policies.¹⁷ In addition to the physical separation of white and black students in both the North and South, resources available to white and black schools were also grossly unequal.

The Supreme Court’s decision in *Brown* shattered the notion of how Americans in the 1950’s viewed our public school system. The Court’s unanimous opinion in 1954 was groundbreaking for the time period and the language of the opinion was particularly resounding:

Today, education is perhaps the most important function of state and local governments... It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.¹⁸

The decision was going to transform American public schools. The Court announced that “separate but equal” was no longer constitutional and ordered the lower courts to craft appropriate remedies to achieve desegregation in response to the new decree.¹⁹

Immediately following the *Brown* decision, however, most states refused to comply with and defiantly protested against the Court’s desegregation mandate. In the 1955 follow-up

¹⁷ CHARLES T. CLOTFELTER, AFTER *BROWN*: THE RISE AND RETREAT OF SCHOOL DESEGREGATION 20 (2004).

¹⁸ *Brown*, 347 U.S. 483, at 493.

¹⁹ *Id.* at 495.

decision, *Brown II*, the Court more directly ordered districts to desegregate, this time with “all deliberate speed,” recognizing that state courts will have varying degrees of difficulty shaping equitable remedies for segregated school districts.²⁰ This language has often been criticized because it essentially gave the Court an “out” to be lenient with states that dragged their feet to comply with the previous desegregation orders. The Court, using the phrase “all deliberate speed,” was hardly explicit in its mandate to dismantle any de jure segregated school in districts across the country, particularly in the South.

Many factors have contributed to the eventual cooperation of school districts. One example is the Civil Rights Act, passed in 1964, which included two important provisions that provided financial incentives to states that complied with desegregation orders.²¹ It specifically authorized the Secretary of Health, Education, and Welfare to withhold funding for school districts that excluded students on the basis of race.²² In addition, the Civil Rights Act provided an express provision that gave the Attorney General the power to initiate class action suits against any recalcitrant school districts. Suddenly, Southern states began complying with the Court’s mandate and were financially rewarded for their “rapid” desegregation plans, many of which included elaborate and costly busing schemes.²³

²⁰ *Brown v. Bd. of Ed. (Brown II)*, 349 U.S. 294, 294 (1955).

²¹ Civil Rights Act 42 U.S.C. § 2000c-4 (1979); 42 U.S.C. § 2000c-6 (1972).

²² CLOTFELTER, *supra* note 17, at 26.

²³ The busing schemes played an essential role in the desegregation of schools, albeit a contentious role. This paper will not discuss the implications that busing schemes on integration efforts. For a discussion of this, see *Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 30 (1971) (holding that it was within the District court’s discretion to order mandatory busing as a school desegregation tool); *see also* DAVID J. ARMOR, *FORCED JUSTICE: DESEGREGATION AND THE LAW* (1995).

About a decade later, the *Milliken v. Bradley* decision effectively halted any major desegregation plans developed by district courts and implemented by school districts.²⁴ In this case, the District Court of Michigan found that the Detroit school district was racially segregated in violation of *Brown*'s constitutional mandate.²⁵ The District Court ordered state officials to submit a desegregation plan that would redraw school district boundary lines extending to a three-county radius. The new boundary lines affected 53 additional school districts outlying the Detroit school district.²⁶ On appeal to the Supreme Court, the 5-4 majority opinion²⁷ held that Detroit's multi-district desegregation plan was improper because the remedy affected school districts that were never in violation of de jure segregation.²⁸ The Court further stated that desegregation decrees were intended to dismantle the "state-mandated or deliberately maintained dual school system" of black vs. white schools- the district did not have to provide a perfect racial balance in every school thereafter.²⁹ With very few exceptions, this decision prevented any future desegregation efforts on a metropolitan basis.³⁰ The Court held that unless the government

²⁴ *Milliken v. Bradley*, 418 U.S. 717, 717 (1974).

²⁵ *Id.* at 745; *Bradley v. Milliken*, 338 F.Supp. 582, 594-95 (E.D. M.I. 1971).

²⁶ *Id.* at 733.

²⁷ CLOTFELTER, *supra* note 17, at 31 (Interesting political note: 4 of the 5 majority votes were all Nixon appointees (Burger, Blackmun, Powell, and Rehnquist). In a taped conversation between Nixon and Attorney General John Mitchell regarding who would replace the retiring Justice Hugo Black, Nixon can be heard saying: "I don't care if he's a Democrat or a Republican...[w]ithin the definition of conservative, he must be against busing, and against forced housing integration. Beyond that, he can do what he pleases").

²⁸ *Milliken*, 418 U.S. at 745 ("Specifically, it must be shown that racially discriminatory acts of the state or local school districts, or of a single school district have been a substantial cause of interdistrict segregation. Thus an interdistrict remedy might be in order where the racially discriminatory acts of one or more school districts caused racial segregation in an adjacent district, or where district lines have been deliberately drawn on the basis of race. In such circumstances an interdistrict remedy would be appropriate to eliminate the interdistrict segregation directly caused by the constitutional violation").

²⁹ *Id.* at 737.

³⁰ CLOTFELTER, *supra* note 17, at 31.

had deliberately caused the segregated residential patterns, the schools were not required to address any racial imbalance that might exist within or among school districts.³¹

Following *Milliken* the Supreme Court was notably quiet on desegregation issues. In 1991 it revisited desegregation, taking up a challenge from African American parents in the Oklahoma school district.³² The case had been ongoing since 1961, navigating its way in and out of Oklahoma courts through a series of challenges and appeals to different district strategies of desegregation, or lack thereof.³³ The issue before the Supreme Court was to determine when districts would be free from being forced to adopt desegregation plans aimed at “eliminate[ing] the vestiges of past discrimination to the extent possible.”³⁴ In other words, at what point could the Oklahoma court dissolve the desegregation decree at issue. The Court held that once a school district achieved “unitary” status, it was no longer required to comply with previous desegregation orders.³⁵ The *Dowell* decision is important for this notion because it only required that school districts engage in “good faith” efforts to desegregate; desegregation decrees were not intended to endure in perpetuity.³⁶

This decision, coming over ten years after *Milliken*, had another chilling effect on school integration efforts because it gave districts a defense to justify having racially segregated

³¹ Erica Frankenberg, *School Segregation, Desegregation, and Integration: What Do These Terms Mean in A Post-Parents Involved in Community Schools, Racially Transitioning Society?*, 6 SEATTLE J. FOR SOC. JUST. 533, 540 (2008).

³² Bd. of Ed. of Oklahoma City Public Sch. v. Dowell, 498 U.S. 237, 237 (1991).

³³ *Dowell*, 498 U.S. at 240-44.

³⁴ *Id.* at 250 (District courts should look to every facet of school operations including student assignments, extracurricular activities and facilities).

³⁵ *Id.* at 246-48 (“Unitary” describes “a school system which has been brought into compliance with the command of the Constitution”) (Lower courts are notably inconsistent on their use of “unitary” and the Supreme Court has failed to specify what factors are determinative of a “unitary” school district).

³⁶ *Id.* at 248-249.

schools so many years after *Brown*. At the same time that the state courts were dealing with desegregation mandates, residential housing continued to become more and more segregated, creating more issues for school districts attempting to voluntarily achieve racially integrated schools.³⁷ Despite the legal barriers, some districts continued to make concerted efforts to integrate recognizing the value and importance of diversity in the classroom.

B. Diversity in Education – Compelling Interest

In the *Brown* decision, the Supreme Court recognized that education was a necessary vehicle for social mobility and that it should not be conferred upon children on account of race.³⁸ There was no mention of diversity in education, its benefits or otherwise. However, years of research and study have now shown that diversity- in terms of race, culture, and socioeconomic status- is a valuable pursuit in the realm of educational improvements.³⁹ *Parents Involved* is a recent Supreme Court case dealing with two separate districts attempting to create more diverse city schools.⁴⁰ The decision, although heavily criticized for its ultimate holding, actually provides encouraging language for recognizing the benefits of diversity in K-12 schools.⁴¹ In *Parents Involved*, student assignment plans in the Seattle and Louisville school districts were being challenged because the plans used the race of a child as a factor in certain student

³⁷ Marc Seitles, Note, *The Perpetuation of Residential Racial Segregation in America: Historical Discrimination, Modern Forms of Exclusion, and Inclusionary Remedies* 14 J. LAND USE & ENVTL. L. 89, 90-101 (1998).

³⁸ *Brown*, 347 U.S. at 495.

³⁹ Anurima Bhargavo, Erica Frankenberg & Chinh Q. Lee, *Still Looking to the Future*, THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. (LDF) 17-19 (2008).

⁴⁰ *Parents Involved*, 551 U.S. at 701.

⁴¹ Note: The Court already previously held that diversity in *higher* education is a compelling interest. *Grutter v. Bollinger*, 539 U.S. 306, 307 (2003).

assignment decisions.⁴² A plurality of the Court struck down the Seattle and Louisville assignment plans finding that the reliance on race as an assignment factor violated equal protection guarantees.⁴³ However, Kennedy's concurring opinion combined with the dissenting justices created a majority of the Court who recognized that promoting student diversity in K-12 public schools was a compelling government interest.⁴⁴

This Nation has a moral and ethical obligation to fulfill its historic commitment to creating an integrated society that ensures equal opportunity for all of its children. *A compelling interest exists in avoiding racial isolation*, an interest that a school district, in its discretion and expertise, may chose to pursue. Likewise, a district may consider it a *compelling interest to achieve a diverse student population*.⁴⁵

Parents Involved now serves as the guiding framework within which districts must try to operate if they want to voluntarily attempt racial and socioeconomic integration. The decision generated a lot of mixed reviews, namely because of its complexity, but it is important to differentiate between what *Parents Involved* does and does not say that districts can *voluntarily* do to integrate. In his concurrence, Justice Kennedy explicitly set out ways that districts in the future can use race-conscious means to achieve the integrated objectives. He suggests that districts employ strategic site selection of new schools, drawing attendance zones with general recognition of the racial demographics of neighborhoods, allocating recourses for special programs, recruiting students and faculty in a targeted manner, and tracking enrollments,

⁴² *Parents Involved*, 551 U.S. at 710-711.

⁴³ *Id.* at 796 (holding that the plans were not narrowly tailored enough to achieve the desired ends).

⁴⁴ BHARGAVO, *supra* note 39, at 27.

⁴⁵ *Parents Involved*, 551 U.S. at 796 (emphasis added).

performance and other statistics by race.⁴⁶ These methods are important because they acknowledge the critical link between housing patterns and education.

In 2009 Louisville wanted to try integration again, but with a different strategy. The Jefferson County school board hired education policy experts to prepare a student assignment plan that capitalized on Kennedy's strategies and redrew district boundary lines that would created racially and socioeconomically diverse clusters based on household income, average educational attainment, and racial makeup of the new neighborhood.⁴⁷ This method considers race only as it reflects the racial makeup of the neighborhood, not the individual race of specific children. It remains to be seen whether the plans will be implemented and challenged moving forward.⁴⁸

Students from all racial and ethnic backgrounds who attend diverse schools are more likely to have higher test scores and better grades compared to those who attend schools with high concentrations of low-income and disadvantaged minority youth.⁴⁹ These students are also much more likely to graduate from high school, attend similarly integrated colleges, and graduate from college.⁵⁰ In response to the oft-questioned benefit to white students- integrated school environments do not harm the test scores and academic achievement of white students. To the contrary, white students who grow up in racially and socioeconomically diverse school

⁴⁶ *Parents Involved*, 551 U.S. at 789.

⁴⁷ GARY ORFIELD & ERICA FRANKENBERG, DIVERSITY AND EDUCATION GAINS. A PLAN FOR A CHANGING COUNTY AND ITS SCHOOLS 2 CIVIL RIGHTS PROJECT (2011).

⁴⁸ For a survey of parent and student opinions of the student assignment plans following *Parents Involved* see Gary Orfield & Erica Frankenberg, *Experiencing Integration in Louisville: How Parents and Students See the Gains and Challenges*, <http://civilrightsproject.ucla.edu> (Jan. 27, 2011). Interestingly, Orfield previously found that Kentucky was the most integrated state for African American students in his 2004 study *BROWN AT 50: KING'S DREAM OR PLESSY'S NIGHTMARE?*, 29 CIVIL RIGHTS PROJECT (2004).

⁴⁹ BHARGAVO, *supra* note 39, at 17-19.

⁵⁰ See Michelson, *supra* note 4, at 6.

environments are better prepared for living and working in our increasingly diverse American society than their peers who experience a racially isolated school experience.⁵¹

C. Resegregation and Recent Education Reforms

Despite growing amounts of research supporting student diversity, public schools today are experiencing levels of racial isolation that has not been this high since the 1960's before racial integration programs became widespread.⁵² Nationally, nearly 40% of Black and Latino students attend schools categorized as "intensely segregated" because the student population is between 90-100% students of color; only 1% of White student attend such schools.⁵³ In the Northeast, nearly four out of every five Black students attend schools where students of color predominate.⁵⁴ Also in the Northeast, South and West, almost 80% of Latino students attend such schools.⁵⁵ Fewer than one in forty white students attend the 26 largest city school districts, where these districts enroll over one-fifth of all Black and Latino students.⁵⁶ Not coincidentally, the urban schools that serve predominantly low-income, high minority student populations often have the least amount of resources, the least effective teachers, and unsuitable school facilities contributing to their often inferior academic performance.

The 1966 "Equality of Educational Opportunity," also known as the Coleman Report, was one of the most seminal studies of educational equity to date. It was conducted by the

⁵¹ ORFIELD, *supra* note 47, at 34.

⁵² BHARGAVO, *supra* note 39, at 12; GARY ORFIELD & CHINH Q. LEE, RACIAL TRANSFORMATION AND THE CHANGING NATURE OF SEGREGATION 11-12 CIVIL RIGHTS PROJECT (2006).

⁵³ *Id.* at 11.

⁵⁴ *Id.* at 12.

⁵⁵ *Id.* at 14.

⁵⁶ *Id.* at 13.

sociologist James S. Coleman for the U.S. Department of Education.⁵⁷ Shortly after the 1964 Civil Rights Act, Congress commissioned this report in an attempt to document measurable differences between the schools attended by black and white students. The study unexpectedly found that the biggest predictor of a student's academic achievement was the socioeconomic status of the family a child comes from, and the second biggest predictor was the socioeconomic status of his or her classmates.⁵⁸ This academic disparity between the students from very low-poverty and high-poverty upbringings came to be known as the infamous "achievement gap."⁵⁹

Since the Coleman report, research regarding the effects of the achievement gap between low-income minority students and their middle-class white counterparts has been rampant. Additionally, the findings helped to broaden the scope of the segregation argument to include children, of all races, living in poverty. Poverty in schools is typically measured by calculating how many children are eligible for the government free and/or reduced lunch program. Students from families at or below the poverty line are eligible.⁶⁰

In his book, Still Separate and Unequal, Barry Gold studied the student populations and achievements of three urban New Jersey schools in the early 2000's.⁶¹ He noted that years of residential housing patterns caused most of New Jersey's de facto segregation.⁶² The housing patterns of New Jersey residents were geographically split along racial and economic lines due in

⁵⁷ JAMES COLEMAN ET AL., THE EQUALITY OF EDUCATIONAL OPPORTUNITY, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE OE-38001 (1966).

⁵⁸ *Id.* at 21.

⁵⁹ Gerald Walker, Englewood and the Northern Dilemma, 197 THE NATION, July 1963, at 7-10.

⁶⁰ *Income Eligibility Guidelines*, DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE: NATIONAL SCHOOL LUNCH PROGRAM, (last modified March 29, 2013), <http://www.fns.usda.gov/cnd/governance/notices/iegs/iegs.htm>.

⁶¹ Bridge Street school in Newark, NJ; Church Street School and Park Avenue School both in Elizabeth, NJ.

⁶² GOLD, *supra* note 1, at 9.

large part to long-term social processes, including the industrialization of the cities and the construction of highways that allowed for more affluent families to escape the deteriorating urban centers.⁶³ A 2004 study showed that New Jersey schools were the fifth most segregated in the nation for Black students and fourth for Latino students.⁶⁴ Gold argues that reform efforts targeting low-income and high-minority schools do little to improve the achievement gap and his study confirms that integration is a necessary component to any legitimate reform.⁶⁵

The racial isolation of our nation's public schools has even attracted the attention of the United Nations, which criticized the U.S. in a 2008 report by the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).⁶⁶ The report reads:

The Committee remains concerned about the persistence of de facto racial segregation in public schools. In this regard, the Committee notes with particular concern that the recent US Supreme Court decision in *Parents Involved*...have rolled back the progress made since the U.S. Supreme Court's landmark decision in *Brown v. Board of Education*, and limited the ability of public school districts to address de facto segregation by prohibiting the use of race-conscious measures as a tool to promote integration.⁶⁷

Because of data-driven research regarding the achievement gap and continuing signs of widespread segregation, most ongoing "reform efforts" seek to give the high-needs inner-city students the same opportunities that their suburban counterparts have available to them. While the education improvements are admirable, they do nothing to remedy the racial isolation in schools and instead mirror the "separate but equal" notion that the Court ruled was

⁶³ *Id.* at 9.

⁶⁴ ORFIELD, *BROWN AT 50*, *supra* note 48, at 27, 29.

⁶⁵ GOLD, *supra* note 1, at 2.

⁶⁶ Comm. on the Elimination of Racial Discrimination, *Consideration of Reports Submitted by States Parties Under Article 9 of the Convention: Finding on the United States of America*. 77nd Session, Geneva, 4 (Feb. 18-March 7, 2008).

⁶⁷ *Id.* at 4.

unconstitutional in *Brown*. This is where the difficulty lies in crafting educational reforms without widespread and systematic change; reforms become band-aids over a pervasive problem. The ramifications of the *Milliken* and *Parents Involved* decisions certainly resulted in significant hurdles for districts wanting to desegregate but the consequences are far from the end of the road for achieving integrated schools.

III. Intersection of Housing and Education Policy

“Residential segregation is the principal organizational feature of American society that is responsible for the creation of the urban underclass.”⁶⁸

We will never be able to achieve fully integrated schools until our urban centers begin to resemble the desegregated quality that we so desire. For the better part of the last 40 years, efforts to promote integration in housing and education have proceeded along separate tracks.⁶⁹ Like in Seattle and Louisville in the *Parents Involved* decision, districts are attempting voluntary desegregation by crafting student assignment plans and boundary-drawing. As will be discussed below, housing policies are also evolving in much of the same way. Instead of continuing to operate separately, education policies should be implemented in conjunction with housing policies that promote integration in neighborhoods and schools. The strategies below discuss the benefits and opportunities presented through organic integration of neighborhoods by gentrification and governmental efforts that can incentivize neighborhoods to become more racially and socioeconomically integrated.

⁶⁸ DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 9 (1993).

⁶⁹ Philip Tegeler, *Introduction*, in *FINDING COMMON GROUND*, *supra* note 4, at 1.

A. Gentrification – Organic Approach to Integration

The term “gentrification” has become quite common in the language of economic development in recent years.⁷⁰ Depending on what side of the ideological spectrum you fall, the word has the potential for either a hopeful or sobering socioeconomic reality. The concept of gentrification is extremely complex, and a comprehensive and balanced discussion of the enterprise could fill the pages of textbooks.⁷¹ When a neighborhood is in the process of gentrifying, results can range from displacement of low-income, minority residents and severe racial tensions to improvements of historically blighted and neglected communities and local economies. While the concept is often met with criticism, gentrification can produce neighborhood shifts that could significantly affect urban public schools for the better. Comparing the student achievement of racially isolated students with the achievement of students attending integrated schools in gentrified communities is an important indicator of how housing and education shifts should work in tandem.

The very essence of “gentrification” indicates that an influx of wealth- often white middle to upper class individuals- enters a historically distressed urban neighborhood. In a hefty policy brief commissioned by the Brookings Institution Center on Urban and Metropolitan Policy in 2001, the authors provide a balanced approach to gentrification and ways that

⁷⁰ Rob Goodspeed, ‘Gentrification’: The Birth of a Word in D.C., (Aug. 10, 2006) <http://goodspeedupdate.com/2006/2017>.

⁷¹ Indeed, many scholars have undertaken this task. *See, e.g.*, J. Peter Byrne, *Two Cheers for Gentrification*, 46 HOW. L.J. 405 (2003); Geoff Wagner, *Virtue and Vice: A Reassessment of Gentrification*, 7 J.L. SOCIETY 271 (2005); Mathew M. Cregor, *Continuing the Conversations: School Integration by Race and Socioeconomic Status in Gentrifying Neighborhoods*, 13 GEO. J. ON POVERTY L. & POL’Y 595 (2007).

community members and stakeholders can take advantage of what gentrification has to offer.⁷²

The brief, which includes strategies that communities can use to maximize the potential for benefits following a gentrification period, points out that improving the quality of education will increase the life chances for original city residents as well as new.⁷³

Looking at data without caution can be a tragic mistake in assessing the stages of the gentrification of a neighborhood and the positive effects it could have for the neighborhood's public schools. The "gentrified numbers" do not tell the entire story. An influx of "whites" into a neighborhood merely shows that there is an increase in the number of white individuals that move into an area. That data does not indicate whether the individuals have children or intend to have children. It does not even indicate whether there was a dominance of another race before the influx. One article points out that certain city downtowns have become recently "gentrified" according to data points but this was only because no one had previously lived in the downtown of these particular cities so naturally the number of whites who live there increased- the number of *people* who lived there increased.⁷⁴

Public officials should take advantage of such crucial data to best combat the misconceptions of gentrification with viable and sustainable policies for the benefit of all the communities' interests- particularly with respect to public schools. Where gentrification is happening more rapidly, districts, families, and schools should seize the moment as an opportunity to integrate across racial and socioeconomic classes.

⁷² MAUREEN KENNEDY & PAUL LEONARD, DEALING WITH NEIGHBORHOOD CHANGE: A PRIMER ON GENTRIFICATION AND POLICY CHANGE, BROOKINGS INSTITUTION CENTER ON URBAN AND METROPOLITAN POLICY (2001).

⁷³ *Id.* at 38.

⁷⁴ Michael J. Perilli, *The 50 zip codes with the largest growth in white population share, 2000-2010*, THOMAS B. FORDHAM INSTITUTE (June 14, 2012), <http://edexcellence.net>.

B. Government Efforts

Because we cannot wait for the most underperforming urban school district to organically become gentrified with racial and socioeconomically diverse families, various housing policies need to play a major role in promoting desegregation. Affordable housing needs to be available in all cities and neighborhoods, but particularly in places where low-income families are being displaced by an influx of individuals and families who have the means to revitalize the neighborhood and in turn drive housing prices up. We also need to prevent the concentration of poverty in our urban hubs to avoid having to engage in extreme redistricting, or mandatory assignments to desegregate. This is where it becomes increasingly clear that housing policy *is* school policy.

1. Federal – Legislation and Grants

In 1968, Congress passed Title VIII of the Civil Rights Act, also known as the Fair Housing Act (FHA), which banned discrimination in the housing context.⁷⁵ The sweeping legislation “prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.”⁷⁶ This was an important piece of legislation for obvious reasons, however, most of the enduring segregation of housing that we still see today, can be traced back to before the FHA went into effect.⁷⁷ Because of decades of housing discrimination, cities now tend to look very racially and

⁷⁵ Fair Housing Act, 42 U.S.C. § 3604 (1968).

⁷⁶ *Id.*; 24 C.F.R. § 100.50.

⁷⁷ Marc Seitles, Note, *The Perpetuation of Residential Racial Segregation in America: Historical Discrimination, Modern Forms of Exclusion, and Inclusionary Remedies*, 14 J. LAND USE & ENVTL. L. 89, 90-101 (1998).

socioeconomically different than suburbs and rural towns. Some of the most distressed cities often have very high populations of low-income minority families. In recognition of the reality of these housing patterns, policies have begun to emerge to remedy both the segregation and the inequality of resources in such neighborhoods.

The Neighborhood Revitalization Initiative (NRI) is a 2010 White House undertaking aimed at transforming distressed areas into "neighborhoods of opportunity."⁷⁸ The Initiative focuses its resources and attention on a multi-department collaboration specifically rolling out five comprehensive programs to target certain blighted neighborhoods. The five collaborative projects and their Department leads include: Choice Neighborhoods, through the Housing and Urban Development (HUD), Promise Neighborhoods, through the Department of Education (ED), Byrne Criminal Justice Innovation, through the Department of Justice (DOJ), Community Health Centers, through the Department of Health and Human Services (HHS), and Behavioral Health Services, also through HHS.⁷⁹ This innovative overhaul by President Obama is an extremely important shift because it recognizes that the development of communities and their residents needs to happen on a comprehensive and inclusive scale through a combination of resources and policies. The project's targeted approach changes the old way that government used to funnel money and resources into nationwide solutions. It puts the control in the hands of the communities and the community stakeholders that know its people and needs the best.

⁷⁸ Office of Urban Affairs, *The White House Neighborhood Revitalization Project*, THE WHITE HOUSE 1 (September 2011), <http://www.whitehouse.gov/administration/eop/oua/initiatives/neighborhood-revitalization>.

⁷⁹ *Id.* at 3-4.

The Promise Neighborhood Project is one of the five NRI programs that falls within the Department of Education's purview.⁸⁰ This program provides federal money to promote cradle to career resources for children living in distressed neighborhoods. The program envisions that all children who grow up in a Promise Neighborhood will have access to high quality schools with the support of strong systems of family and community. This comprehensive approach seeks to adequately educate and successfully transition each child to be college and career-ready. The Program hopes to attain these lofty goals and transform designated communities by—

1. Identifying and increasing the capacity of eligible entities that are focused on achieving results for children and youth throughout an entire neighborhood;
2. Building a complete continuum of *cradle-to-career solutions* of both educational programs and family and community supports, with great schools at the center;
3. Integrating programs and breaking down agency “silos” so that solutions are implemented effectively and efficiently across agencies;
4. Developing the local infrastructure of systems and resources needed to sustain and scale up proven, effective solutions across the broader region beyond the initial neighborhood; and
5. Learning about the overall impact of the Promise Neighborhoods program and about the relationship between particular strategies in Promise Neighborhoods and student outcomes, including through a rigorous evaluation of the program.⁸¹

Grants can be given to non-profits, institutions for higher education, and/or Indian tribes.⁸² Part of the program's success thus far is its investment in the initial planning phases of development. Grants are given to organizations at both planning and implementation phases to encourage accountability and transparency from the very beginning of the process. The organizations and community groups that apply for the planning grants to create a Promise Neighborhood are given

⁸⁰ *Id.* at Apx. A.

⁸¹ *Promise Neighborhoods: Program Description*, U.S. DEPARTMENT OF EDUCATION (last modified March 13, 2013), <http://www2.ed.gov/programs/promiseneighborhoods/index.html> (emphasis added).

⁸² *Id.*

access to planning resources and guides to help establish effective management and foster community buy-in.⁸³

The second NRI program relevant to school integration is the Choice Neighborhood Program, which is under the Department of Housing and Urban Development (HUD).⁸⁴ This program also funnels federal money into distressed neighborhoods with the goal of establishing affordable housing among other things.⁸⁵ The grants are awarded to organizations who have workable plans to “transform distressed neighborhoods and public and assisted projects into viable and sustainable mixed-income neighborhoods by linking housing improvements with appropriate services, schools, public assets, transportation, and access to jobs.”⁸⁶ Like the Promise Neighborhood Program, Choice Neighborhood grants are also awarded in the separate planning and implementation phases.⁸⁷ HUD hopes to use the Choice Neighborhoods as a way to encourage mixed-income housing options all over the country. Affordable housing options – *options* being the operative word- is merely the starting point to broader systematic change that can come to a neighborhood where residents feel stable, safe, stimulated, and connected.

As a result of the federal NRI, the U.S. Department of Education has adopted a “place-based approach” of attacking systematic issues that acknowledges that the “federal government can support strategies to achieve better outcomes for kids and families by taking into account

⁸³ *Promise Neighborhoods: Resources*, U.S. DEPARTMENT OF EDUCATION (last modified Feb. 26, 2013), <http://www2.ed.gov/programs/promiseneighborhoods/resources.html>.

⁸⁴ Office of Urban Affairs, *The White House Neighborhood Revitalization Project*, THE WHITE HOUSE 3 (September 2011), <http://www.whitehouse.gov/administration/eop/oua/initiatives/neighborhood-revitalization>

⁸⁵ *Choice Neighborhoods*, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/cn.

⁸⁶ *Id.*

⁸⁷ *Id.*

where investments are made and how those investments interact with other resources, policies, and programs.⁸⁸ Some examples in the education context include creating programs to affect achievement targeted at schools and neighborhoods with the highest needs; school buildings that provide a physical space for academic and non-academic growth; peer influence due to residence.⁸⁹ This approach marks a significant departure from establishing sweeping reforms and policies that do not meet the specific needs of communities and residents. This place-based strategy recognizes the importance of differentiating needs among communities. It also allows for school districts to focus its resources on pursuing diversity, through recruiting methods or outreach to parents.

In June 2012, the White House issued a progress report on the Department of Education's new "Place-Based Strategy."⁹⁰ This report briefly assessed the Department's new approach to how federal policies affect the development of urban and rural areas in all aspects of life, namely "education, health, housing, energy, and transportation."⁹¹ The report indicated that the new approach resulted in significant progress in meeting the national educational needs of children as well as progress in identifying ways to better improve educational outcomes.⁹² It is likely that the early success of the program is a preview of what's to come for the place-based way of thinking.

The Housing Choice Vouchers (HCV) Program is another federal initiative that can be used in conjunction with educational reforms to achieve sustainable integration. HCV's are one

⁸⁸ U.S. DEPARTMENT OF EDUCATION, IMPACT IN PLACE: A PROGRESS REPORT ON THE DEPARTMENT OF EDUCATION'S PLACE-BASED STRATEGY 5 (2012).

⁸⁹ *Id.* at 5.

⁹⁰ *Id.* at 5.

⁹¹ *Id.*

⁹² *Id.* at 22.

of the oldest strategies that the government has available that could also be a viable way to address place-based needs.⁹³ The program provides low-income families with a voucher that can be used in the private market toward purchase or rent for homes.⁹⁴ Eligibility is based on the total annual gross income and family size.⁹⁵ Generally, a family's income may not exceed 50% of median income for the county in which the family chooses to live.⁹⁶ This program places the choice of housing in the hands of individual families. This is important because typically the public housing options available to very low-income families are often buildings or units that are in very poor shape, are unsafe for children, and lack access to resources such as transportation, jobs, and of course, quality education. Programs like HCV's give families the freedom to move into neighborhoods where more low-poverty families may already reside and where schools and resources are significantly better. The program is another option to encourage and facilitate housing integration. The HCV program serves roughly 1.5 million households compared to only 1.2 million households living in public housing.⁹⁷

2. Local- Inclusionary Zoning policies

⁹³ The housing voucher programs began in 1974. *Housing Choice Voucher Guidebook, Chapter 1: Introduction to the Guidebook*, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT 1-3, http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/forms/guidebook.

⁹⁴ Landlords who accept the vouchers are heavily regulated and compensated.

⁹⁵ *Housing Choice Voucher Guidebook, Chapter 5: Eligibility*, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT 5-2, http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/forms/guidebook.

⁹⁶ *Id.*

⁹⁷ HEATHER SCHWARTZ, HOUSING POLICY IS SCHOOL POLICY: ECONOMICALLY INTEGRATIVE HOUSING PROMOTES ACADEMIC SUCCESS IN MONTGOMERY COUNTY, MARYLAND, THE CENTURY FOUNDATION 36 (2010).

Local municipalities and counties have a policy tool available that can significantly aid in the reciprocal housing-education policy forum. Inclusionary zoning (IZ) policies essentially require that developers must set aside a specified amount or percentage of housing units to be used by low and moderate-income families. The inclusionary zoning policies can be mandatory or elective, with municipalities providing incentives to developers. “By linking the production of affordable housing to private market development, IZ expands the supply of affordable housing while dispersing affordable units throughout a city or county to broaden opportunity and foster mixed-income communities.”⁹⁸

One of the most famous case studies of the positive benefits of inclusionary zoning can be seen in Montgomery County, in Maryland. Montgomery County is a DC suburb that experienced high population growth due to a large availability of jobs. 40 years ago, the suburb had more jobs than residents.⁹⁹ In 1974, Montgomery County adopted a mandatory inclusionary zoning policy that required all developers of market-rate residential developments (of 20 units or more) to set aside 12.5 to 15 percent of the units so that they could be rented or sold at below-market prices.¹⁰⁰ The set aside units were called moderately priced dwelling units (MPDUs).¹⁰¹

Another feature of the county’s zoning policy is that it allowed the public housing authority, the Housing Opportunities Commission (HOC), to purchase one-third of the MPDUs within each subdivision to operate as federally-subsidized public housing.¹⁰² Essentially, this allows for households that typically earn below the poverty line to live in affluent neighborhoods

⁹⁸ *Inclusionary Zoning: What is it?* POLICYLINK (last updated in 2003), <http://www.policylink.org/site/c.lkIXLbMNJrE/b.5137027/>.

⁹⁹ Heather Schwartz, *Housing Policy is School Policy*, in FINDING COMMON GROUND, *supra* note 4, at 15.

¹⁰⁰ SCHWARTZ, *supra* note 97, at 13.

¹⁰¹ *Id.* at 13.

¹⁰² *Id.* at 4.

and send their children to the affluent neighborhood schools. In Montgomery County, the HOC purchased about 1,500 units to date and roughly 700 of these units are scattered-site public housing rentals.¹⁰³

The reason Montgomery County's inclusionary zoning attracted such attention is because the county also boasts one of the most exceptional school districts in the country. Schwartz's case study of Montgomery County showed astounding results, resulting in large part from the innovation of the zoning policies and significant effects the residential policies had on the Montgomery public schools in the years 2001 to 2007. The findings of the study showed that children who lived in neighborhoods where less than 20 percent of the elementary school population was poor significantly outperformed similar low-income children from neighborhoods with public schools that had more than 35 percent of students living in poverty.¹⁰⁴ The school district is minority white (37%) and about 90% of its students graduate from high school.¹⁰⁵ The study also found that residential stability was a key component to academic success for poor children living in public housing.¹⁰⁶

As a tool, inclusionary zoning policies can be powerful weapons for local municipalities hoping to achieve integrated and diverse communities. Some argue that it combats exclusionary zoning policies that contributed to many of our segregated cities and suburbs. Inclusionary zoning is also a great example of the response of private sector developers to

¹⁰³ *Id.* at 16.

¹⁰⁴ *Id.* at 6. (HOC randomly assigns applicants to these public housing apartments. This prevents certain families from self-selecting into neighborhoods schools of their choice and allows for this study to fairly compare children in public housing in low-poverty school settings to other children in public housing in higher-poverty settings within the county).

¹⁰⁵ Heather Schwartz, *Housing Policy is School Policy* in FINDING COMMON GROUND, *supra* note 4, at 15.

¹⁰⁶ SCHWARTZ, *supra* note 97, at 7.

respond to a public sector affordable housing shortage. Additionally, inclusionary zoning can help to eliminate the displacement of low-income families when areas begin to show signs of gentrification. If developers are re-entering blighted communities because of an influx of wealth and economic prosperity, municipalities could enact inclusionary zoning laws that would blunt the potentially devastating effects of pushing the local, low-income families out of the neighborhood. Roughly 500 cities, towns and counties nationwide have enacted mandatory inclusionary zoning laws.¹⁰⁷

The famed *Mount Laurel* case, decided by the New Jersey Supreme Court in 1975 was once referred to as “the fair housing equivalent for *Roe v. Wade* or *Brown v. Board of Education*.”¹⁰⁸ Here, the New Jersey Supreme Court held that the state municipalities each have a constitutional responsibility to provide for its fair share of low-income housing.¹⁰⁹ This “fair share” is not to be based on just the need of the town’s boundaries but based on the regional need. The challenge came to a zoning policy in place making it essentially impossible for the new developing town of Mount Laurel to build and sustain affordable housing options for low-income individuals. The zoning ordinance effectively discriminated against people who could not afford to live there. “It is plain beyond dispute that proper provision for adequate housing of all categories of people is certainly an absolute essential in promotion of the general welfare required in all local land use regulation.”¹¹⁰ The result of the decision was to encourage the construction of low- and moderate-income housing in the suburbs. In addition, 226 de facto

¹⁰⁷ David Rusk, *Housing Policy is School Policy: A Commentary*, in FINDING COMMON GROUND *supra* note 4, at 21.

¹⁰⁸ GOLD, *supra* note 1, at 13 (Mount Laurel was decided a year after Montgomery County adopted its IZ policy – interesting shift in county mindset).

¹⁰⁹ S. Burlington County N.A.A.C.P. v. Mount Laurel Twp., 336 A.2d 713, 727 (N.J. 1975) (*Mount Laurel*).

¹¹⁰ *Mount Laurel*, 336 A.2d at 727.

inclusionary zoning programs now exist in New Jersey as a result of this decision.¹¹¹ Many other large cities and counties in other states have followed suit.¹¹²

IV. Policy Proposals and Recommendations

No education “reforms” can happen in a vacuum or can be successfully implemented without overlap and interplay. The singular goal of racially and socioeconomically integrated classrooms would be completely meaningless without effective teachers leading each classroom, spending policies that make sense, and a curriculum aimed at high-caliber thinking and learning as opposed to passing state and federal standardized tests. Additionally, integration of neighborhood schools, even in gentrified cities, rarely happens without financial incentives or policy mandates.¹¹³ Much like after the *Brown* decision was handed down, schools and districts dragged their feet to comply with the desegregation orders. It took almost 10 years for schools to get serious about coming up with legitimate plans to dismantle the segregated school districts. This is why most argue that reforms need to come from districts and local governments to get the ball rolling.

In 2011, the federal government set up the Magnet Schools Assistance Act (MSAA).¹¹⁴ This program provides grants to magnet schools that operate under a “court-ordered or federally approved voluntary desegregation plan.” The grants are awarded with the purpose of supporting the elimination of racial isolation. Organizations applying for such grants must be advocates for

¹¹¹ NICHOLAS BRUNICK, THE IMPACT OF INCLUSIONARY ZONING IN DEVELOPMENT, BUSINESS AND PROFESSIONAL PEOPLE FOR THE PUBLIC INTEREST 2 (2003)(in addition to New Jersey’s own Fair Housing Act).

¹¹² *Id.* at 17-18.

¹¹³ MICHAEL J. PETRILLI, DIVERSE SCHOOLS DILEMMA: A PARENTS GUIDE TO SOCIOECONOMICALLY MIXED PUBLIC SCHOOLS 3 (Thomas B. Fordham Inst. 2012).

¹¹⁴ Magnet School Assistance Act, 20 U.S.C. § 7231c (2002).

systematic changes and seek to “provide all students with the opportunity to meet challenging academic content and student academic achievement standards.”¹¹⁵ MSAA grants reward school leadership that implements the ever so important goal of increasing and embracing diversity in the classroom. These grants, however, are problematic in that the monetary awards encourage magnet schools to operate under a standard that is aware of the racial and socioeconomic imbalance in their schools and gives them the means to correct it. Traditional public schools now have to work the labyrinth of legal strictures to implement voluntary desegregation plans, without the added benefit of federal money. While nothing is perfect, it surely is an encouraging sign that the federal government has recognized diversity in education as a funding priority.

Many of the usual suspects in the education reform context have also proposed policy recommendations that recognize the importance of school integration. On the more divisive issues in school reform, there are always arguments occupying both ends of the spectrum of possibilities. School integration, however, appears to be an emerging topic among reformers where the usual opponents are suddenly seeing eye to eye about the benefits and ensuing push for integrated public schools. Two such individuals are Michelle Rhee and Michael Petrilli. Rhee is the “hard-nosed” reformer and the former D.C. Chancellor of Public Schools now “backing economic school integration plans in places like Cambridge, Massachusetts, and La Crosse, Wisconsin, noting, ‘Research shows that socioeconomic integration clearly benefits low-income kids.’”¹¹⁶ Petrilli, a reformer favorite on the conservative side and former G.W. Bush DOE

¹¹⁵ *Id.*

¹¹⁶ Richard Kahlenberg, *Class No Longer Dismissed*, WASHINGTON MONTHLY (Jan/Feb 2013), <http://www.washingtonmonthly.com>.

officer, similarly suggests that now is the time to dismantle and integrate high-poverty schools.¹¹⁷

In his book, Petrilli documents the difficulty that typically wealthy, white gentry parents face when deciding whether or not to send their children to the neighborhood urban public schools. As a way to avoid this “diverse schools dilemma,” Petrilli suggests three potential options that districts and/or states can do to integrate all schools: (1) eliminating school boundary systems entirely; (2) redrawing boundaries to engineer a socioeconomic balance; and (3) create magnet schools in strategic locations to draw middle class and poor students alike.¹¹⁸ These policy recommendations are important proposals because they are not completely radical or unworkable options, but also because they bear striking similarity to Justice Kennedy’s suggestions in his *Parents Involved* concurrence.

Petrilli’s first recommendation sounds quite drastic but actually has been done by a few municipalities throughout the country. Wake County in North Carolina boldly tried Petrilli’s first suggestion in the early 2000’s and it was recently overturned by populist community support, resulting in the school board’s dismissal of the controversial superintendent.¹¹⁹ The benefits to this policy would be that districts would have the freedom to decide if no boundaries would even facilitate racial *and* economic integration of their schools. It would make student assignments random, based on something similar to a lottery or general application process. The criticism to this is that in places where property taxes go toward supporting the local schools, property values

¹¹⁷ PETRILLI, *supra* note 113.

¹¹⁸ *Id.* at 15.

¹¹⁹ Jaclyn Brzycki, *Superintendent Fired in Wake County, N.C.*, EDUCATION WEEK (Oct. 1, 2012) <http://www.edweek.org/ew/articles/2012/10/03/06wake.h32.html>.

would plummet once expensive neighborhoods and properties no longer guaranteed enrollment in the high-quality public schools.

Petrili's second suggestion would have similar benefits and drawbacks. Petrilli envisions this looking different depending on where the district geographically falls. If schools were located centrally to an affluent and a poor neighborhood, redrawing district lines would be an easy task.¹²⁰ Districts could also reserve spots for "out of district students."¹²¹ The cons to this approach are that redrawing districts can push families into a different zone and disrupt the stability a child should have in his or her school, regardless of its caliber. The proposed plan in Kentucky mentioned in Section II subsection B avoids this issue by allowing students who are happy in their schools to remain in the school they currently attend.

Lastly, he suggests creating magnet schools in strategic locations. This option, while also rife with its own issues, is one of the most viable and effective recommendations. If new schools are opened,¹²² it creates an option for all the families in a region to have access to the school. Each family would be operating under the same expectations and presumably would be aligned with the new schools mission and academic and social goals. This is crucial because often times when schools attempt to integrate – white families into minority schools or vice versa- the school leadership is slated with not only physically integrating the schools, but making sure families are emotionally able to handle the reality of a racial and economically diverse student and parent population.

A book by school integration specialist, Jennifer Stillman, highlights the reality of what happens when "gentry" parents seek to enroll their children in a predominantly-minority school,

¹²⁰ PETRILLI, *supra* note 113, at 24.

¹²¹ *Id.* at 24.

¹²² This includes re-opening schools that are closed or renovated for varying purposes.

an experience that she is personally familiar with.¹²³ She points out that often these schools take on the huge task of ensuring that white gentry parents feel included and valued. From her experience she recommends involving parents groups to help facilitate integration and ensure that their “needs” are met. This, unsurprisingly, is an extremely controversial point of view because it tends to treat the gentry white parents and families as superior to the families already at the school. Whether it is the reality of a difficult to discuss situation, or a contentious and *pretentious* look at integration, the truth of the matter is that these discussions and innovations need to continue.

V. Conclusion

As citizens of the United States, we all have a stake in the future of our country and investing our resources and attention in the systematic failures of our public school system is a good place to start. Encouraging diversity of thought in our education is a must and can only be achieved by establishing adequate schools that serve the diversity of races and classes in our melting pot of a country. The bottom line is that if all schools were adequate centers to facilitate learning and growth, we might not be so concerned with encouraging integration efforts. However, until we implement dramatic systematic changes in the education system that continues to fail many of our nation’s children, we can only hope that small incremental changes, such as promoting racially and socioeconomically integrated schools, can prove a positive step in the process. There are ways that school districts, local municipalities, states, and the federal government can implement policy changes to move the needle in the right direction forward. The issue quite literally begins at home- starting from the neighborhood that a child is born into- and

¹²³ JENNIFER BURNS STILLMAN, GENTRIFICATION AND SCHOOLS: THE PROCESS OF INTEGRATION WHEN WHITES REVERSE FLIGHT 12 (Aug. 2012).

continues throughout the child's educational career and beyond. Housing and education policies need to remain aligned in goal and process so that one day, education does not *need* to be the great equalizer because all children will have access to the same quality and resources for learning.